

This rejection is respectfully traversed.

As to claim 1:

1. The claim is drawn to an earthquake resistant structure. The block of Kirkpatrick is a veneer faced building block.

2. The claim calls for aggregate pieces within the block to be adjacent the lower surface. The block of Kirkpatrick places aggregate pieces adjacent a front or outwardly facing surface.

3. The claim requires the aggregate pieces to be in direct contact with one another. Kirkpatrick states that the block is constructed of cement with a crushed rock veneer face. As can be seen in Fig. 1, the stones at the lead line 10 and to the left of it are clearly not all in direct contact with each other. And there is no limitation or disclosure that direct contact of all stones is necessary or desirable.

4. The claim requires the aggregate pieces to extend from and between the block sides. Kirkpatrick deliberately precludes the aggregate pieces from extending between the block sides by angling the veneer edges away from the veneer face at their edges. There is a considerable distance between the aggregate on the block ends as clearly seen in Fig. 2.

5. The claim requires that the aggregate pieces be held in contact with each other by mortar so that impact and stress force be transferred from one piece to another throughout the block. Kirkpatrick has no way for impact and stress to be imparted to the "aggregate" or veneer face so that the impact and stress can be transferred from one piece to another. There are no provisions for horizontal stress transfer and the voids at the extremities of the veneer face preclude transfer of any forces through the aggregate layer.

The instant block is to an essentially horizontal stress support block. The block of Kirkpatrick is to a non-analogous aesthetic face of a vertical wall that does not accommodate any stresses. The size of the aggregate relates to its function. A single random stone-face layer is different from a specific stress transfer layer.

The patent to Kirkpatrick does not disclose or render obvious the structure of claim 1.

As to claim 2, contrary to the allegation, the aggregate of adjacent blocks in Kirkpatrick are not in contact with each other, they are deliberately precluded from contacting each other. It appears clear that in Kirkpatrick only the cement in adjacent blocks is in contact.

As to claim 6, even if the aggregate and fine material were obvious, which they are not in view of use, the aggregate of Kirkpatrick is not in contact with each other throughout the block or between blocks in view of the tapered edges.

As to claims 8-12, the opinion or logical substitution or equivalents made by the Examiner might be somewhat reasonable if it were not for the use the blocks are disclosed to be constructed for. It is not obvious to substitute specific stress-conducting materials for aesthetic veneer materials where stress is irrelevant. The one purpose of the invention is to provide for shock and stress while specifically avoiding the need for expensive stone.

As to claims 13, 14, 18 and 19, the process claim provides for the specific block claimed. The personal opinion of the Examiner is not a substitute for prior art teachings. There is no specific positioning of aggregate in Kirkpatrick in firm contact with either each other or with the mold sides (the aggregate is specifically not being placed even close to the mold sides). There is no parallelepiped formed. There is no side-by-side placement having the aggregate of one block in firm contact with that of an adjacent block. There is no specific placement between the coarse and fine aggregate. There is no earthquake resistant block disclosed or manufactured.

Claims 3-5, 15 and 16 are rejected under 35 USC 103(a) as being unpatentable over Kirkpatrick in view of Guastavino. The patents to Guastavino (prior response) and Kikpatrick (above) have both been addressed.

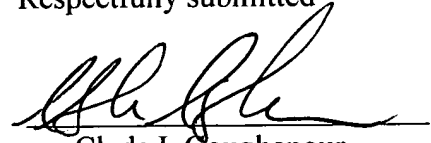
The patents cannot properly be combined. The vertical aesthetic surface of Kirkpatrick is not analogous to the horizontal bridge construction of Guastavino. Further, neither reference teaches parallelepiped blocks having aggregates that are in firm contact with each other, nor such contact on one end with concrete spacing the other end, nor the formation of an arch in place as required by the claim.

The applicable law is set forth in the response to the Office Action dated June 7, 2002. The appropriate applicable law is stated in In re Wagner et al and In re Randal et al and Deering Milliken Research v. Beaunit Corp. and In re Hummer and In re Winslow and In re Luvisi and Noheil and In re Shaffer and W. L. Gore & Associates v. Gorlock, Inc. and Ex Parte Fleischmann and In re Harry Sponnoble and In re Osweiler and In re Pye and Peterson and In re Randal et al and Ex parte Gould and In re Hedges et al as set forth on pages 7, 9, 10, 11, 14, 16 and 17 of that response.

CONCLUSION

The claims are believed to define patentable subject matter and to be in condition for allowance and such action is earnestly solicited.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Clyde I. Coughenour', written over a horizontal line.

Clyde I. Coughenour

Reg. No. 33,083

Clyde I. Coughenour
16607 Sutton Place
Woodbridge, VA 22191-4627
(703) 221-8677